



STATE OF ARKANSAS
**Department of Finance
and Administration**

OFFICE OF THE DIRECTOR
1509 West Seventh Street, Suite 401
Post Office Box 3278
Little Rock, Arkansas 72203-3278
Phone: (501) 682-2242
Fax: (501) 682-1029
<http://www.state.ar.us/dfa>

February 14, 2008

University of Arkansas
Vice Chancellor for Finance & Administration
Attention: Donald O. Pederson
406 Administration Building
Fayetteville, Arkansas 72701

Re: Advisory Opinion # 483-08-03

Dear Mr. Pederson:

This letter is in response to your request for an advisory opinion in accordance with A.C.A. § 19-11-715(b). Your request for an advisory opinion is based on the following facts:

1. The University of Arkansas issued a request for qualifications and solicited bids from architectural firms for the purpose of constructing a parking garage with linear buildings.
2. A new bookstore will be developed as one of the linear buildings in this project.
3. Laleh Amirmoez is a principal in Amirmoez Foster Hailey Johnson (AFHJ), one of the architectural firms awarded a contract as result of the request for qualifications.
4. Laleh Amirmoez is the wife of Ali Sadeghi, Director of the University Bookstore.
5. Ali Sadeghi had no involvement in the procurement process and has not participated either directly or indirectly in this matter.
6. Ali Sadeghi does not have control over, nor any ownership interest in Amirmoez Foster Hailey Johnson (AFHJ).
7. You are requesting an advisory opinion regarding the potential conflict of interest inherent in the above stated facts, and if necessary, a waiver in accordance with A.C.A. § 19-11-715(c).

I note initially that A.C.A. § 19-11-715(c) provides for the granting of a waiver from the provisions of A.C.A. § 19-11-705 to state employees and is not applicable in this instance, as Laleh Amirmoez is not a state employee. The proper course is to determine whether A.C.A. § 19-11-705 prevents AFHJ from contracting with the University of Arkansas due to a conflict of interest on the part of Ali Sadeghi.

A.C.A. § 19-11-705, Employee conflict of interest, prohibits contracts with family members or employee who "participate" in the procurement process. The definition of "direct or indirect participation" at A.C.A. § 19-11-705 (a)(2) includes, but is not limited to, "involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity." The position of employment and/or an employee's "participation" in the procurement process, both "direct" and "indirect" must be examined on a case by cases basis.

Pursuant to A.C.A. § 19-11-705, it would be a conflict of interest for Ali Sadeghi, an employee of the University of Arkansas, to participate either directly or indirectly in the procurement process resulting in a contract that the University entered into with AFHJ, a company in which his spouse is a principal. Assuming that Ali Sadeghi has no involvement with the contract entered into between the University of Arkansas and AFHJ there is no violation of the ethics provisions found in Arkansas's procurement law at A.C.A. § 19-11-701 et seq. The ethics laws do not prohibit an agency that employs one spouse from contracting with the other spouse as long as the state employee is not in any way involved with the procurement process involving his or her spouse.

Governor's Executive Order 98-04 requires that agencies must obtain the approval of the Chief Fiscal Officer of the State in order to contract with the spouse of a state employee if the amount of the contract will exceed \$25,000. Accordingly, if AFHJ's contract with the University of Arkansas is greater than \$25,000, the University of Arkansas should submit a request for approval of the contract.

This advisory opinion is issued in accordance with Arkansas Code Annotated § 19-11-715(b) and compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Act and Executive Order 98-04.

Sincerely,

Richard Weiss
Director

CC:
Robin Rogers, OSP